SUCCESSION DUTIES AND THE IMPOSITION OF SAME

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SUCCESSION duties, which are now generally admitted to be fair and reasonable taxation, have in Canada frequently become excessive and vexatious by reason of dual imposition. In our confederation we have nine provinces, each of them possessing as ample powers of "direct taxation within the province" as the Imperial Parliament itself possesses. A principle of International law, to which I shall later venture to refer more fully, is that while immovable property is governed by the law of the place where it is situated, movable property is governed by the law of the domicile of its owner, and is not deemed to have any *situs* apart from that domicile. This principle is expressed in the maxim *mobilia sequunter personam*. Notwithstanding this principle, which is recognized by every writer on private international law, we find that every state claims absolute juri[illegible] over all the property, immovable and movable, which i[illegible] y situated within its territory. To put the questio[illegible] concrete in the matter of succession duties, we have eac[illegible] of the provinces of the Dominion claiming the power—I do not know whether they all have exercised it—of imposing duties upon successions devolving within it, including all the property of the succession, movable and immovable, within the province, and also all the movable property of the succession wheresoever situated; and at the same time each province claims the power to impose succession duties upon all the property, movable and immovable, situated within its limits and belonging to successions devolving in other provinces or in foreign countries. Thus, the Province of Quebec exacts duties upon the succession of a person dying domiciled in the province, (1) upon all the property, movable and immovable, situated in the province, and (2) upon all the movable property situated in Ontario, Manitoba or anywhere else. The Province

of Ontario, in the matter of the same succession, exacts duties upon all the property, movable and immovable, situated within its limits, although the succession devolved in the Province of Quebec. The converse is true of successions devolving in Ontario. I understand the succession duty laws of other provinces are similar. These impositions are enforced by penalties, by enactments that no property liable to duty shall pass nor shall anyone acquire any title to it until the duty be paid, and by prohibiting banks and other corporations making any transfers of shares until evidence is furnished them that the succession duty has been paid. So a portion of nearly every large succession is compelled to suffer duplicate taxation.

The case of Lambe *vs.* Manuel, decided a few years ago, was followed with much interest in the hope that the judgment of the Privy Council would remove the anomaly. The late Mr. Allan Gilmour died while domiciled in Ottawa, and a portion of his estate consisted of 626 shares of the Merchants Bank of the value of $93,900, and 4,275 shares of the Canadian Bank of Commerce of the value of $306,187, together with a loan secured by hypothec in Montreal. Mr. Lambe, the collector of revenue in Montreal, brought suit against Manuel, Gilmour's executor, to recover the Quebec succession duty upon these three items of the estate, as being liable under the Quebec Succession Duty Act, which at that date read:—(Art. 1191 b, Revised Statutes, Quebec), "All transmissions, owing to death, of the property in, usufruct or enjoyment of, movable or immovable property in the province, shall be liable to the following taxes, etc." The claim to the duty on the bank stocks was based on the fact that the head office of the Merchants Bank was in Montreal, and that, although the head office of the Bank of Commerce was in Toronto, it had a branch in Montreal with a separate stock register and transfer book, and that Mr. Gilmour's shares were, at the time of his death, standing in his name in the Montreal register. Sir Melbourne Tait, in a judgment citing numerous authorities (Q.R., 18 S.C., p. 184), held that the language of the article of the Revised Statutes invoked applied only to a succession devolving in the Province of Quebec. He laid it down that "the rule *mobilia sequunter personam* is well recognized in our law, and also in the law

of England, in interpreting the legacy and succession duty acts in force there," and quoted from Hanson on Death Duties (Ed. 1897, p. 526):—

"It has already been pointed out (ante, p. 423), that in "order to render personal property liable for duty, it is neces- "sary that it should be situate within this country, and that "as property of a movable nature accompanies, in construction "of law, the person of its owner, the situation of the owner's "domicile at the time of his death, and not the actual local "situation of the property itself, is the true test of its liability "to duty. And with regard to the personal property other than "chattels real of a testator or intestate who dies domiciled "abroad, it is now settled that it is not chargeable with duty "under this Act (that is, the Succession Act) any more than "under the Legacy Duty Act, notwithstanding that it may "be actually situate in this country at the time of the owner's "death."

Sir Melbourne quoted further from Lord Cranworth's judgment in the matter of the succession of Lord Henry Seymour, who died domiciled in France, bequeathing movable property in England:—

"The question therefore is whether, where a person "domiciled abroad, makes a will giving personal property in "country by way of legacy, the legatee is a person becoming "entitled to that property within the true intent and meaning "of the second section. I think not. I think that in order "to be brought within that section, he must be a person who "becomes entitled by virtue of the laws of this country. Any "wider construction would give rise to difficulties hardly to be "surmounted."

The Manuel case, however, turned upon the construction of the Quebec Act, which was held according to its wording, to apply only to transmissions in the Province of Quebec. The Court of Appeals unanimously confirmed the judgment, and upon the Quebec Government's appeal to the Privy Council, Lord Macnaghten disposed of the case in the following few words:—

"The reasons of the learned judges were delivered by Sir "Melbourne M. Tait, Acting Chief Justice, in the Superior "Court, and by Bossé, J., in the Court of King's Bench.

"Those reasons, stated shortly, are that according to their "true construction, the Quebec Succession Duty Acts only ap- "ply in the case of movables to transmissions of property result- "ing from the devolution of a succession in the Province of "Quebec, or, in other words, that the taxes imposed by those "Acts on movable property are imposed only on property which "the successor claims under or by virtue of Quebec law, and "that in the present case the several items in respect of which "succession taxes are claimed form part of a succession devolv- "ing under the law of Ontario.

"The decisions of the Quebec courts are, in their Lord- "ships' opinion, entirely in consonance with well-established "principles, which have been recognized in England in the "well known cases of Thomson *vs.* Advocate-General, and Wal- "lace *vs.* Attorney-General, and by this Board in the case of "Harding *vs.* Commissioners of Stamps for Queensland.

"Their Lordships will, therefore, humbly advise His Ma- "jesty that the appeal should be dismissed."

As I have already intimated, the judgment of Sir Melbourne Tait really turned upon the construction of the Quebec Succession Duty Act, and the case can, therefore, not be cited as a direct authority for the proposition that a Province has power to levy succession duty upon movable property situate without such province and forming part of a succession which devolves within that province. When we look at the only three cases cited by Lord Macnaghten as exemplifying well-established principles, it might reasonably be assumed that such power does exist.

One is naturally beset with difficulty in predicating general principles from decisions which are influenced more or less by the views that their Lordships have taken of particular acts, or, as Lord Hobhouse described it in one case, as "verbal criticism of the acts." Nor is it reasonable to say that one decision is inconsistent with another without being able to determine just how potent a factor this verbal criticism was in the decision of each case. I cannot, however, refer to the recent case of Woodruff *vs.* The Attorney-General of Ontario, upon which present interest centres, without some reference to the

three cases which Lord Macnaghten refers to as expressing well established principles.

The first of these was Thomson *vs.* Advocate-General, decided by the House of Lords in 1845 (12 Clarke & Finnelly, p. 1). John Grant, a British subject, died, domiciled in Demerara, where the law of Holland was in force, leaving movable property in Scotland. Suit was brought by the Advocate-General to recover succession duty upon this movable property in Scotland, and the Court of Exchequer gave judgment in favour of the Crown. The case was carried to the House of Lords, where Lord Lyndhurst, L.C., in discussing the supposed distinction between the case of the Attorney-General & Forbes and Arnold *vs.* Arnold, said:—

"I apprehend that that is an entire mistake, that personal "property in England follows the law of the domicile, and that "it is precisely the same as if the personal property had been "in India at the time of the testator's death. That is a rule "of law that has always been considered as applicable to this "subject..... Now, My Lords, if you apply that principle, "which has never been quarrelled with, which is a known prin- "ciple of our law, to the present case, it decides the whole "point in controversy. The property, personal property, being "in this country at the time of the death, you must take the "principle laid down in the case of *In Re* Ewin (1 Cr. & Jerv., "151), and it must be considered as property within the domi- "cile of the testator, which domicile was Demerara."

The Lord Chancellor was followed by Lord Brougham, who expressed his views as follows:—

"Here it is a case of money or property brought over "here and administered here, the domicile of the testator or "intestate being abroad out of the jurisdiction. There, in the "matter of Ewin, it was the converse, administration being by "a person domiciled here and a testator or intestate domiciled "here, and the funds locally situated abroad; it is perfectly "clear that no difference can be made in consequence of that "because the principle *mobilia sequunter personam* as regards "their distribution and their coming or not within the scope "of this Revenue Act, must be taken to apply to two cases pre-

"cisely similar; and the rule of law, indeed, is quite general "that in such cases the domicile governs the personal property, "not the real; but the personal property is in contemplation "of the law, whatever may be the fact, supposed to be within "the domicile of the testator or intestate."

Lord Campbell expressed the same view as follows:—

"If a testator has died out of Great Britain with a domi- "cile abroad, although he may have personal property that is "in Great Britain at the time of his death, in contemplation "of law that property is supposed to be situate where he was "domiciled and, therefore, does not come within the Act; this "seems to be the most reasonable construction to be put upon "the Act of Parliament; it is the most convenient, and any "other construction would lead to very great difficulties."

The second of the cases was Wallace *vs.* The Attorney-General, decided in 1865 (L.R.I., ch. 1), where Lord Cransworth, L.C., gave the judgment from which Sir Melbourne Tait quoted at some length. The Lord Chancellor took the case just above referred to, of Thomson and the Advocate-General, as "finally settling the law upon the subject." This was the case which arose concerning the estate of Lord Henry Seymour, who died, domiciled in France, leaving movable property in England.

The last of the three cases which Lord Macnaghten refers to is that of Harding and the Commissioners, decided in 1898 (1898 A.C., p. 769). Silas Harding died, domiciled in Victoria, leaving movable property in Queensland. The case went to the Privy Council, where Lord Hobhouse, having quoted the Queensland Act, said:—

"The literal force of these expressions include the estate "of Silas Harding. But then it includes a great deal more "which nobody can suppose that the Legislature intended to "tax. It includes all persons and all property all over the "world, and if not confined within reasonable limits would "enable the Queensland authorities to levy a tax in respect of "foreign property on foreigners within their power. Abnormal "consequences such as these have been avoided by judicial de- "cisions in England..... The matter appears to be well

"summed up in Mr. Dicey's work on the Conflict of Laws, at "page 785, in which he paraphrases Lord Cransworth's applica- "tion of the principle '*mobilia sequunter personam*' by saying "that the law of domicile prevails over that of situation.

"It is, of course, a maintainable opinion that the law of "situation should prevail, and that a line which brings under "the general words of taxation property which is protected "by the taxing state, and which in case of dispute is admin- "istered by it, would form a more reasonable limitation of "such words than the limitation of such words by domicile. "The learned judges just below inclined to that principle; "and the Queensland Legislature has adopted it. But the "Court has only to decide what the Legislature meant when it "passed the Act of 1892, etc."

This case certainly seemed to sanction the principle that in contemplation of law movable property is deemed to be situate where the testator or intestate had his domicile at the time of his death, and thus to bring the property within the taxing jurisdiction of the state where the testator had his domicile.

But the Manuel case only held that the Quebec Act, as then worded, was limited in its application to succession devolving within the Province of Quebec. At the very next session the Quebec Legislature passed an amending Act (3 Edward VII, ch. 20, sec. 1), adding the following words to article 1191b of the Revised Statutes:—

"The word 'property' within the meaning of this Act "shall include all property, whether movable or immovable, "actually situate or owing within the province, whether the "deceased at the time of his death had his domicile within "or without the province, or whether the debt is payable within "or without the province, or whether the transmission takes "place within or without the province."

I take it to be elementary law that the Quebec Legislature cannot, by means of any definition which it can devise, enlarge the scope of the taxing powers which it possesses only by virtue of the British North America Act. To that Act alone we must have reference in order to determine what these powers are, and in section 92, sub-section 2, we find the power of

direct taxation limited to taxation within the province. It is obvious that the Juebec Legislature cannot, by definition or any other form of enactment, bring taxation beyond the province within its powers. But it would be difficult to argue that the Juebec Provincial amendment, which I have just quoted, is *ultra vires* of the Quebec Legislature. Lord Cransworth, in the Wallace case, said:—

"Parliament has, no doubt, the power of taxing the succession of foreigners to their personal property in this country, "but I can hardly think we ought to presume such an intention "unless it is clearly stated."

And Sir Melbourne Tait, in the Manuel case, said:—

"The power of the Legislature to levy a tax upon movable "property situate in this province, irrespective of where the "testator is domiciled or where the succession devolves, cannot "be doubted, and it would not have been difficult to find lan-"guage to express its intention to exercise it."

We have, therefore, very high authority to the effect that movable property is deemed to be situate where the testator or intestate had his domicile, and we have also high authority for holding that the Provincial Legislature has power to tax whatever property it finds within its territorial jurisdiction. The question naturally arises whether movable property, for the purpose of taxation, can be held to be situate in two different places at the same time. This brings us to the consideration of the case of Woodruff *vs.* The Attorney-General of Ontario, decided by their Lordships of the Privy Council in July last. The judgment of the Court of Appeals in Ontario is reported in 15 Ontario Law Reports, 1908, p. 416. The facts, arguments and views of the judges in the courts below are exposed in the decision of the Privy Council, as delivered by Lord Collins, and in order that the scope of this judgment may be fully understood, I shall not attempt to summarize it, but quote the report as given in the London *Times*:—

"Lord Collins, in delivering their Lordships' judgment, "said, the question on these appeals was as to the right of the "Attorney-General of the Province of Ontario to demand pay-"ment of a tax called, in the Provincial Act (The Succession

"Duty Act, Rev. Stat., Ont., 1897 c. 24), which imposed "it, 'succession duty' upon personal property locally situate "outside the province and alleged by him to form part of the "estate of a deceased domiciled inhabitant of the province, "one Samuel de Veaux Woodruff. The question involved the "consideration of two separate transactions or sets of trans- "actions whereby the deceased divested himself, or assumed to "divest himself, of certain personal property locally situate in "the State of New York. The first of those transactions took "place in 1894, the second in 1902. The deceased died on "November 28th, 1904, domiciled, as above stated, in the "Province of Ontario. The present suit was brought by the "Attorney-General in February, 1906, to have it declared that "the property comprised in the transactions of 1894 and 1902 "(as well as certain other property described as 'the home- "stead property') was improperly omitted from a certain affi- "davit to lead probate filed by the first three defendants (ap- "pellants) as executors of S. de V. Woodruff in the Surrogate "Court, and claiming an account of the dutiable value of the "property, and payment of the amount of the succession duty "thereon. The action was tried before Chief Justice Falcon- "bridge, of the King's Bench Division of the High Court, who, "on January 5th, 1907, held that the homestead property, which "had been settled on the testator's wife and his son, H. K. "Woodruff, was improperly omitted from the affidavit, but that "the property comprised in the transactions of 1894 and 1902 "was not improperly omitted from the affidavit, and as the "value of the homestead property, added to the estate disclosed, "did not bring the property up to the minimum value fixed "by the Succession Duty Act for payment of duty in the case "of property going to a wife and children, he dismissed the "action. On appeal to the Court of Appeal for Ontario the "decision of the trial judge as to the homestead property and "the transaction in 1894 was affirmed, but was over-ruled in "the transaction of 1902; and as to the amount comprised in "the latter, the defendants were held liable to pay succession "duty. No question had been raised before their Lordships "as to the homestead property, but both parties had appealed

"as to the transactions of 1894 and 1902, the defendants seek-
"ing to set aside the decision against them as to the transaction
"of 1902, and the plaintiff by way of cross-appeal claiming
"duty in respect of the transaction of 1894. Though that
"latter claim arose by way of cross-appeal only, and the main
"appeal was by the defendants in respect of the transaction of
"1902, it was, perhaps, more convenient to take them in chrono-
"logical order and begin with the transaction of 1894. In
"that year the Mercantile Safe Deposit Company in New York
"City held in their custody for S. de V. Woodruff, bonds and
"debentures issued by various municipalities in the United
"States and transferable by delivery, amounting in value to
"about $213,000. He arranged with the United States Trust
"Company of New York that they should take over the custody
"of those securities to be held by them in trust to carry out
"the terms of certain deeds to be executed by each of his
"four sons. He then, in company with his son, H. K. Wood-
"ruff, went to New York, taking with him four trust deeds
"executed by his four sons respectively, and delivered those
"deeds with four parcels of the securities, one parcel appro-
"priated to each deed, to the Trust Company to hold under
"the terms of the trusts so credited. Those trusts were for
"the benefit of each of the sons respectively during his life
"and for his children after him in equal shares. During the
"life of S. de V. Woodruff the income derived from these secur-
"ities was sent by the Trust Company half-yearly to the sons
"respectively by cheques on a New York bank. Those cheques
"were sent on by the sons to S. de V. Woodruff, who returned
"to each of them $1,500 per annum. The evidence was that
"there was no agreement, arrangement or bargain of any kind
"between the father and the sons that he should receive this
"income or any portion of it, and that this action on the part
"of the sons was entirely voluntary. Chief Justice Falcon-
"bridge held as to the transactions, both of 1894 and 1902,
"that the Act did not 'extend to this particular property situ-
"ated in the State of New York and governed by the laws of
"New York,' and that, in the view he took of the case, the
"intentions and motives of the testator and his sons were not

"in issue. The subject-matter of the transfer of 1902 con-
"sisted of similar bonds or debentures, also then in the custody
"of the Mercantile Safe Deposit Company, New York, and
"a cash balance in the hands of Messrs. E. D. Shepard & Com-
"pany, bankers, New York City, the proceeds of collection of
"interest they had made for S. de V. Woodruff, together with
"certain coupons and bonds in their hands for collection,
"amounting in all to a par value of about $443,257. By writ-
"ten directions from S. de V. Woodruff to the Safe Deposit
"Company and Messrs. Shepard respectively, the above secur-
"ities were, in August, 1902, transferred in their books into
"the names of his three sons, and in the case of his safe in
"the custody of the Safe Deposit Company into the names of
"his three sons and his wife. The securities remained thus
"locally situate in the State of New York until the death of
"S. de V. Woodruff in 1904. As has been above stated, the
"trial judge made no distinction between the 1894 and the
"1902 transactions. He treated them both as falling outside
"the scope of the Provincial Act. The majority of the Court
"of Appeal, however, held that the second of the two trans-
"actions fell within the Act, while they affirmed the view of
"the trial judge as to the first. Mr. Justice Meredith held
"that both alike were covered by the Act. They both were
"concerned with movable property locally situate outside the
"province, and the delivery under which the transferees took
"title was equally in both cases made in the State of New
"York. While, therefore, their Lordships agreed with the
"decision of the majority of the Court of Appeal, confirming,
"as it did, that of the trial judge as to the earlier transaction,
"they were unable to follow their view of the latter one. The
"pith of the matter seemed to be that the powers of the Prov-
"incial Legislature being strictly limited to 'direct taxation
"within the province' (British North America Act, 30 and
"31 Victoria, c. 3, sec. 92, sub-sec. 2), any attempt to levy
"a tax on property locally situate outside the province was
"beyond their competence. That consideration rendered it
"unnecessary to discuss the effect of the various sub-sections
"of section 4 of the Succession Duty Act, on which so much

"stress was laid in argument. Directly or indirectly the con-
"tention of the Attorney-General involved the very thing which
"the Legislature had forbidden to the province—taxation of
"property not within the province. The reasoning of the Board
"in Blackwood *vs.* The Queen (8 App. Cas., 82), seemed to
"cover this case. Their Lordships would, therefore, humbly
"advise His Majesty that the appeal of the defendants should
"be allowed and the cross-appeal of the plaintiff dismissed, that
"the judgment of the Court of Appeal should be set aside with
"costs, and the judgment of Chief Justice Falconbridge re-
"stored. The cross-appellant would pay the costs of the
"appeals."

Their Lordships, in arriving at these conclusions, appear to be influenced by two principal considerations, (1) that the property was locally situate outside the province, and that, therefore, the imposition of the succession duty was not direct taxation within the province, and (2) that the delivery under which the transferees took title was equally in both cases made in the State of New York. The only case referred to by their Lordships is that of Blackwood *vs.* The Queen, a case from Australia, which was decided in 1882, or sixteen years before the Harding case above referred to. In that case the testator died, domiciled in Victoria, and suit was brought to compel payment of duty upon movable property situate beyond the colony of Victoria. I quote a few words from the judgment of the Chief Justice of the Supreme Court of Victoria:—

"It is a clear proposition, not only of the law of England,
"but of every country in the world where the law has the
"semblance of science, that personal property has no locality.
"The meaning of that is not that personal property has no
"visible locality, but that it is subject to the law which governs
"the person of the owner, both with respect to the disposition
"of it and with respect to the transmission of it, either by
"succession or by the act of the party. It follows the law
"of the person. An owner in any country may dispose of his
"personal property. If he dies it is not the law of the country
"in which the property is, but the law of the country of which
"he was a subject that will regulate the succession. The legal

"effect of these words has been formulated in the well-known "maxim *mobilia sequunter personam.* So the portion of per- "sonal estate of a deceased person that falls within the "term *'mobilia'* is governed by the law of the country in which "he was domiciled, not by the law of the country where the "property may have been at the time of his death. Personal "property has no locality; it follows the owner wherever he "may be domiciled."

This opinion of the learned Chief Justice of Victoria is in full harmony with the views of Lord Lyndhurst, Lord Brougham, Lord Campbell, and even of Lord Hobhouse in the Harding case. The judgment of the Supreme Court of Victoria was reversed, Lord Hobhouse delivering the decision of the Privy Council. It was reversed, not because their Lordships of the Privy Council differed from the general principles laid down by the learned Chief Justice of the Supreme Court of Victoria, but because of the view which they entertained of the literal effect of the taxing act they were construing. Lord Hobhouse said:—

"It appears to their Lordships that the court below has "first searched for a rule of law and has then bent the Statute "in accordance with it; whereas until the true scope and inten- "tion of the statute has been discovered it cannot be seen what "rules of law are applicable to it." After a "verbal criticism of the Statute," Lord Hobhouse concludes:—"What their Lord- "ships find is that the Victorian Legislature have imposed a "tax payable by an executor, as a condition precedent to the "issue and efficacy of the probate necessary for his action, out "of the estate while it is in bulk, and before distribution or "administration has commenced. All these things, the person "to pay, the occasion of payment, the fund for payment and "the time of payment, point to the Victorian assets as the "sole subject of the tax. The reason which led English courts "to confine probate duty to the property directly affected by "the probate, notwithstanding the sweeping general words of "the Statutes which imposed it, apply in full force to this "case..... Their Lordships think that in imposing a duty "of this nature, the Victorian Legislature also was contem-

"plating the property which was under its own hand and did "not intend to levy a tax in respect of property beyond its "jurisdiction, etc."

The gist of the decision was in effect that the language used in that particular Act requiring payment of the duty by the executor, etc., was intended only to cover property within Victoria. The executor by probate in Victoria would not acquire, it seems, control over the property outside of that colony without obtaining ancillary probate, and that the intention was only to tax property of which he acquired the control by the probate. The case does not appear to be any authority for the proposition that the Legislature of Victoria had not inherent power to tax all the movable property, wherever situate, of a succession which devolved in Victoria.

I express no opinion as to whether it can be gathered from the language used by Lord Collins that their Lordships intended entirely to reject the maxim *mobilia sequunter personam* as inappropriate to the decision of questions relating to succession duty, but the perusal of the citations I have taken the liberty of making, will indicate clearly enough how very unsatisfactory and even anomalous a position we find ourselves in with respect to the whole question of succession duties. I suppose I may take it as a postulate that the same property of a succession ought not to pay succession duty twice or to two different taxing powers, and also that movable property ought not to have more than one *situs* in contemplation of law for purposes of taxation. It ought to be possible to remove this anomaly by an agreement between the several provinces, and, if necessary, also between the provinces and the Imperial Government. It is only a very short time since the estate of a lady domiciled in England paid succession duty to the Province of Quebec of upwards of $80,000, most of the property here being movable property. At the last conference of the Provincial Premiers I understand the matter was to some extent discussed, but no agreement was arrived at.

The disposition to do what is right and just no doubt prevails, and it ought not to be difficult to arrive at a rational and an equitable solution of the difficulty. I hear that one

province settled a succession duty question with the Imperial Authorities upon the basis of a division of the amount according to the value of the estate there and here. But a general understanding between the provinces themselves and with the Home Government is essential, to prevent the irritation of double taxation.

In concluding, I hope it will not be deemed an impertinence upon my part if I suggest that one provision of the Ontario Succession Duty Act may be worth a further consideration by the authorities and by the profession, namely, that which, in the case of a person dying, domiciled outside the Province of Ontario, and leaving property in Ontario, fixes the rate of taxation upon that property in Ontario according to the valuation of the whole succession, *i.e.*, that if A die, domiciled in Montreal, leaving, say, $20,000 of property in Ontario, the rate of taxation upon that property in Ontario is made to depend upon how much there is in the succession elsewhere than in Ontario. Again, in cases where the amounts left in Ontario are so small as to be exempt from duty, the province looks upon the estates outside its limits to complete the amounts that will warrant taxation.

Montreal, P.Q., October, 1908.